



Billing Code 6570-01-P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Notice of Submission for OMB Review; Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of information collection – Uniform Guidelines on Employee Selection Procedures – Extension Without Change.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission gives notice of its intent to submit to the Office of Management and Budget (OMB) a request for renewal of the information collection described below.

DATES: Written comments on this notice must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments should be sent to Bernadette Wilson, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street, NE, Washington, DC 20507. As a convenience to commenters, the Executive Secretariat will accept comments totaling six or fewer pages by facsimile (“FAX”) machine. This limitation is necessary to assure access to the equipment. The telephone number of the fax receiver is (202) 663-4114. (This is not a toll-free number). Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663-4070 (voice) or (202) 663-4074 (TTD). (These are not toll-free telephone numbers.) Instead of sending written comments to EEOC, you may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments. All comments received through this portal will be posted without change, including any personal information you provide, except as noted below. The EEOC reserves the right to refrain from posting comments, including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; that contain hate speech directed at race, color, sex, national origin, age, religion, disability, or genetic information; or that promote or endorse services or products. All comments received, including any personal information provided, also will be available for public inspection during normal business hours by appointment only at the EEOC Headquarters Library, 131 M Street NE, Washington, DC 20507. Upon request, individuals who require assistance viewing comments will be provided appropriate aids such as readers or print magnifiers. To schedule an appointment, contact EEOC Library staff at (202) 663-4630 (voice) or (202) 663-4641 (TTY). (These are not toll-free numbers.)

FOR FURTHER INFORMATION CONTACT: Kathleen Oram, Acting Assistant Legal Counsel, at (202) 663-4681 (voice) or (202) 663-7026 (TDD).

SUPPLEMENTARY INFORMATION:

Introduction

The Equal Employment Opportunity Commission (EEOC or Commission) gives notice of its intent to submit the recordkeeping requirements contained in the Uniform Guidelines on Employee Selection Procedures (UGESP or Uniform Guidelines)¹ to the Office of Management and Budget (OMB) for a three-year extension without change under the Paperwork Reduction Act of 1995 (PRA).

Request for Comments

Pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and OMB regulation 5 CFR 1320.8(d)(1), the EEOC invites public comments that will enable the agency to:

- (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, to be collected; *e.g.*, permitting electronic submission of responses.

Overview of Current Information Collection

Collection Title: Recordkeeping Requirements of the Uniform Guidelines on Employee Selection Procedures, 29 CFR part 1607, 41 CFR part 60-3, 28 CFR part 50, 5 CFR part 300.

OMB Number: 3046-0017.

Type of Respondent: Businesses or other institutions; Federal Government; State or local governments and farms.

¹ 29 CFR, part 1607, 41 CFR part 60-3, 28 CFR part 50, 5 CFR part 300.

North American Industry Classification System (NAICS) Code: Multiple.

Standard Industrial Classification Code (SIC): Multiple.

Description of Affected Public: Any employer, Government contractor, labor organization, or employment agency covered by the Federal equal employment opportunity laws.

Respondents: 961,709.

Responses²: 961,709.

Recordkeeping Hours: 7,825,132 per year.

Number of Forms: None.

Form Number: None.

Frequency of Report: None.

Abstract: The Uniform Guidelines provide fundamental guidance for all Title VII-covered employers about the use of employment selection procedures. The records addressed by UGESP are used by respondents to ensure that they are complying with Title VII and Executive Order 11246; by the Federal agencies that enforce Title VII and Executive Order 11246 to investigate, conciliate, and litigate charges of employment discrimination; and by complainants to establish violations of Federal equal employment opportunity laws. While there is no data available to quantify these benefits, the collection of accurate applicant flow data enhances each employer's ability to address any deficiencies in recruitment and selection processes, including detecting barriers to equal employment opportunity.

Burden Statement: There are no reporting requirements associated with UGESP. The burden being estimated is the cost of collecting and storing a job applicant's gender, race, and ethnicity data.

The only paperwork burden derives from this recordkeeping. Only employers covered under Title VII and Executive Order 11246 are subject to UGESP. For the purposes of burden calculation, employers with 15 or more employees are counted. The number of such employers is estimated at 961,709 which combines estimates from private employment,² the public sector,³ colleges and universities,⁴ and referral unions.⁵

² Source: U.S. Small Business Administration: Statistics of U.S. Business, Release Date 1/2017. (<https://www.sba.gov/advocacy/firm-size-data>). Select U.S. Static Data, U.S. Data.

³ Source of original data: 2012 Census of Governments: Employment. Individual Government Data File (https://www2.census.gov/govs/apes/12ind_all_tabs.xls), Local Downloadable Data zip file 12ind_all_tabs.xls. The number of government entities was adjusted to only include those with 15 or more employees.

⁴ Source: U.S. Department of Education, National Center for Education Statistics, IPEDS, Fall 2015. Number and

This burden assessment is based on an estimate of the number of job applications submitted to all Title VII-covered employers in one year, including paper-based and electronic applications. The total number of job applications submitted every year to covered employers is estimated to be 1,878,031,768, based on a National Organizations Survey⁶ average of approximately 35 applications⁷ for every hire and a Bureau of Labor Statistics data estimate of 62,719,000 annual hires.⁸ This figure also includes 146,506 applicants for union membership reported on the EEO-3 form for 2016.

The employer burden associated with collecting and storing applicant demographic data is based on the following assumptions: applicants would need to be asked to provide three pieces of information -- sex, race/ethnicity, and an identification number (a total of approximately 13 keystrokes); the employer would need to transfer information received to a database either manually or electronically; and the employer would need to store the 13 characters of information for each applicant. Recordkeeping costs and burden are assumed to be the time cost associated with entering 13 keystrokes.

Assuming that the required recordkeeping takes 30 seconds per record, and assuming a total of 1,878,031,768 paper and electronic applications per year (as calculated above), the total UGESP burden hours for all employers would be 7,825,132. Based on a wage rate of \$15.21 per hour for the individuals entering the data, the collection and storage of applicant demographic data would come to approximately \$119,020,258 per year for all Title VII-covered employers. We expect that the foregoing assumptions are over-inclusive, because many employers have electronic job application processes that should be able to capture applicant flow data automatically.

However, the average burden per employer is relatively small. As stated above, we estimate that UGESP applies to 961,709 employers. Therefore, the cost per covered employer is less than \$124 each (\$119,020,258 divided by 961,709 is equal to \$123.76). Additionally, UGESP allows for simplified recordkeeping for employers with more than 15 but less than 100 employees.⁹

percentage distribution of Title IV institutions, by control of institution, level of institution, and region: United States and other U.S. jurisdictions, academic year 2015-1 (<http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2016122rev>).

⁵ EEO-3 Reports filed by referral unions in 2016 with EEOC.

⁶ The National Organizations Survey is a survey of business organizations across the United States in which the unit of analysis is the actual workplace (<http://www.icpsr.umich.edu/icpsrweb/ICPSR/studies/04074>).

⁷ The number of applications provided by NOS is 35.225 and therefore calculations will not result in the same total amount due to rounding.

⁸ Bureau of Labor Statistics Job Openings and Labor Turnover Survey, 2016 annual level data (Not seasonally adjusted), (<http://www.bls.gov/jlt/data.htm>) is the source of the original data. The BLS figure (62,719,000) has been adjusted to only include hires by firms with 15 or more employees.

⁹ See 29 CFR 1607.15A(1): *Simplified recordkeeping for users with less than 100 employees*. In order to minimize recordkeeping burdens on employers who employ one hundred (100) or fewer employees, and other users not required to file EEO-1, *et seq.*, reports, such users may satisfy the requirements of this section 15 if they maintain and have available records showing, for each year: (a) The number of persons hired, promoted, and terminated for each job, by sex, and where appropriate by race and national origin; (b) The number of applicants for hire and promotion by sex and where appropriate by race and national origin; and (c) The selection procedures utilized (either standardized or not standardized).

For the Commission.

Dated: February 15, 2018.

Victoria A. Lipnic,

Acting Chair.

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